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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,166	02/26/2004	David W. Dise	07880007AA	9136
30743 7590 08/14/2008 WHITHAM, CURTIS & CHRISTOFFERSON & COOK, P.C. 11491 SUNSET HILLS ROAD SUITE 340 RESTON, VA 20190				
EXAMINER RICHMAN, GLENN E				
ART UNIT		PAPER NUMBER		
3764				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/786,166

Applicant(s)

DISE ET AL.

Examiner

/Glenn Richman/

Art Unit

3764

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 11 and 12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 11 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheffer in view of Novotny.

Scheffer discloses a handle, said handle being selected from the group consisting of at least a portion of a golf club, at least a portion of a softball bat, at least a portion of a baseball bat, at least a portion of a hockey stick, and at least a portion of a tennis racket 13.

Scheffer does not disclose a pulley connectable to a weight stack or resistance based machine or resistance device.

Novotny discloses a pulley connectable to a weight stack or resistance based machine or resistance device fig. 6.

It would have been obvious to use Novotny's pulley and weight system with Scheffer, as it is well known as taught by Novotny to use a pulley and weight system with a swing training device, for providing a resistance to the user.

Novotny further discloses said pulley being movable relative to said weight stack or resistance based machine or resistance device after connection to said weight stack or resistance based machine or resistance device fig. 6; a swivel connector fig. 6, col.

11, lines 33 – et seq. associated with said pulley: and a cord 8 which passes through said pulley.

Scheffer further discloses the cord is connected to said handle at two points separated along a length of said handle fig. 1.

Novotny further discloses said pulley being moveable along said cord to locations which are closer to or further from either of said two points fig. 6, (as pulley will move with swivel connector), said handle being freely rotatable about a longitudinal axis passing through the handle and being freely shiftable, movable or turnable with said cord passing through said pulley during shifting, moving or turning, and said handle being able to be used to move said pulley relative to said weight stack or resistance based machine or resistance device subject to resistance from said weight stack or resistance based machine or resistance device fig. 6.

Scheffer further discloses said cord is made of rope 16.

Claims 3, 4, 11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheffer in view of Novotny and Halsworth.

Scheffer does not disclose said cord is made of rubber material.

Halsworth discloses a cord made of rubber (abstract).

It would have been obvious to use Halsworth rubber with Crespo's cord, as it is well known to use a rubber in a swing training device, as taught by Halsworth, for providing a link to the resistance device.

Halsworth further discloses said cord is or includes a metal cable (col. 1, lines 56-63), at least one of said two points where said cord and said handle are connected

includes a member which encircles said handle and permits rotation of said handle within said member (fig. 11), where said cord and said handle are connected includes washer assembly which fits within said handle and permits rotation of said handle relative to said washer assembly (fig. 1).

Claims 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Scheffer in view of Novotny and Crespo.

Scheffer does not disclose a protective sheath positioned over said cord at one or more locations.

Crespo discloses a protective sheath positioned over said cord at one or more locations 7.

It would have been obvious to use Crespo's protective sheath on Scheffer's cord, as it is well known as taught by Crespo, to use a protective sheath to protect the cord from wear.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to /Glenn Richman/ whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571)272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Glenn Richman/
Primary Examiner
Art Unit 3764